

Applicant : Carl G. Demarcken
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REMARKS

Claims 1-8 and 27-59 were pending. Without conceding any of the examiner's positions, the applicant has amended claim 1 to include the limitations of dependent claim 5 and has canceled claim 5 and claims 29-51 without prejudice. Applicant requests entry of the amendment since this amendment places the case in condition for allowance, places the case in a better condition for appeal, and does not raise new issues of new matter or further search, since dependent claim 5 was already considered by the examiner. Claims 1-4, -6-8, 27-28, and 52-59 are now pending and submitted for reconsideration based on the following remarks.

Claim Rejections - 35 U.S.C. § 112

The examiner rejected claims 5 (now amended claim 1), 52, 55 and 59 under 35 U.S.C. § 112 as being indefinite for failing to particularly point out and distinctly claim the invention. With respect to claims 5 (now amended claim 1) and 52, applicant respectfully submits that these claims are not circular and that the Examiner's stated interpretation is not correct, leading to an incorrect rejection of this claim as noted below.

Amended claim 1 as amended includes a module to define the set of diverse travel requirements. The module defines the set by establishing a plurality of travel requirement templates. Each of the travel requirement templates defines a plurality of travel requirements. The travel requirements correspond to different values of the respective travel requirement. The template that is used in defining the set of diverse travel requirements is populated with different values of the travel requirements. Therefore, when the travel options are essentially filtered by the selection module what appears as an output is a set of travel options that has a degree of diversity with respect to the travel requirements, because selecting was performed based on different values of the travel requirements.

Stating that a set of requirements includes requirements with specific characteristics is not circular.

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The examiner's statements have included questions about what diverse means in this context. [see e.g., Office Action dated 03/01/2004, page 13] Claim 5 (now amended claim 1) addresses that question. Amended claim 1 includes a module that defines the set of diverse travel requirements. To define the set of diverse travel requirements, the module establishes a plurality of travel requirement templates. So, at a minimum, there are a first travel requirement template and a second travel requirement template. Amended claim 1 goes on to require that for each template (i.e., for the first template and for the second template), there is a plurality of travel requirements. So, at a minimum, there are a first travel requirement and a second travel requirement for the first template and a third travel requirement and a fourth travel requirement for the second template. So the set of elements in this example includes at least four elements with different characteristics (i.e., based on two different templates).

Amended claim 1 also requires including a requirement that each of the travel requirements in the plurality associated with a template corresponds to a different value of the template. This requires that the first travel requirement corresponds to a first value of the first template and that the second travel requirement corresponds to a second value of the first template, which is different from the first value. Likewise, this requires that the third travel requirement corresponds to a third value of the second template and that the fourth travel requirement corresponds to a fourth value of the second template, which is different from the third value.

In the example described above, amended claim 1 clearly and distinctly requires that the set of diverse travel requirements include at least four specific travel requirements. This is a different scope than the examiner's incorrect interpretation of "a requirements generator module [that] includes travel requirement template to allow a plurality of travel requirements to be entered." [Office Action, page 2] The examiner also seems to make an error in the sentence preceding this quote. The examiner states that the "current claim language seems somewhat 'circular' in that the claimed module apparently defines a set of travel requirements by establishing travel requirement templates, which are defined by travel requirements (with different values)." [Office Action, page 2 (emphasis added)] Amended claim 1 reads 'and for

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each travel requirement template, defining a plurality of travel requirements...." It is the travel requirement template that is used to define the travel requirements, not the other way around as mistakenly stated in the examiner's statement.

Claim 52 has similar claim limitations as claim amended claim 1, and the arguments above are applicable to claim 52 as well. As explained above, claims 1 and 52 are not circular and they particularly point out and distinctly claim the subject matter, which the applicant regards as his invention. Applicant respectfully requests that the rejection of claims 5 (now amended claim 1) and 52 be withdrawn.

With respect to the rejection of claim 55, claim 55 narrows that the portion of claim 52 that recites "for each travel requirement template, defining a plurality of travel requirements corresponding to a different value of the respective travel requirement template...." Claim 55 depends from claim 54, which includes a limitation that one of the templates can be associated with particular carriers. Claim 55 narrows claim 54 and hence claim 52 by requiring that the values of the template associated with a particular carrier be a first particular airline and a second particular airline. So in essence the portion of claim 52 that recites "for each travel requirement template, defining a plurality of travel requirements corresponding to a different value of the respective travel requirement template" now includes in claim 55, "for a first travel requirement template including particular carriers, defining a first travel requirement corresponding to a first particular airline and a second travel requirement corresponding to a second particular airline."

This is an example of a template that is associated with particular carriers e.g., airlines. Because "airline" is the variable in template 2, a particular airline has to be defined for a specific instance of the template, so Delta would be an example of a first particular airline and American would be an example of a second particular airline.

Claim 59 has similar claim limitations as claim 55, and the arguments above are generally applicable to claim 59. As explained above, claims 55 and 59 are not indefinite, but clearly narrow claims 52 and 56, respectively to a particular template. Applicant respectfully requests that the rejection of claims 55 and 59 be withdrawn.

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Claim Rejections - 35 U.S.C. § 102

The examiner rejected claims 1-8, 27-54, and 56-58 under 35 U.S.C. § 102 as being anticipated by U.S. Patent No. 6,295,521 to DeMarcken ("DeMarcken"). DeMarcken does not anticipate each and every claim limitation of applicant's invention. Currently amended claim 1 recites a requirements generator module including a module to define the set of diverse travel requirements by establishing a plurality of travel requirement templates, and for each travel requirement template, defining a plurality of travel requirements, each of the travel requirements corresponding to a different value of the respective travel requirement template....

DeMarcken discloses a system for extracting a smaller set of travel options from a larger set of travel options. DeMarcken, however does not disclose a system that includes a requirements generator module including a module to define the set of diverse travel requirements by establishing a plurality of travel requirement templates, and for each travel requirement template, defining a plurality of travel requirements, each of the travel requirements corresponding to a different value of the respective travel requirement template. The area of DeMarcken cited by the examiner for this requirement (i.e., user interface, col. 3, line 55 to col. 4, line 62) does not disclose such a limitation. In fact, there is no mention of such a requirements module anywhere in DeMarcken.

The examiner has equated a user interface that allows a plurality of travel requirements with the limitations of amended claim 1. As described above in the response to the 112 rejection, this is clearly an unreasonable and erroneous interpretation. While an examiner is allowed to give terms their broadest meaning, an examiner is not allowed to ignore claim limitations. Here, the examiner has eliminated the elements of the claim. The applicant can only guess that by "user interface" in the cited section (i.e., user interface, col. 3, line 55 to col. 4, line 62), the examiner is talking about the user input query 48. DeMarcken states that the "user input query 48 would typically include minimal information needed to determine a set of pricing solutions. This information typically requires at a minimum, an origin and a destination for travel. In addition, the information could also include times, dates, and so forth." (DeMarcken, col. 4, lines 46-51) The examiner does not state how this anticipates a plurality of requirement

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templates, and for each travel requirement template, defining a plurality of travel requirements, each of the travel requirements corresponding to a different value of the respective travel requirement template. As described above, such a requirement requires that the set of diverse travel requirements includes at least four specific travel requirements, the first travel requirement that corresponds to a first value of the first template, the second travel requirement that corresponds to a second value of the first template, which is different from the first value, the third travel requirement that corresponds to a third value of the second template, and the fourth travel requirement that corresponds to a fourth value of the second template, which is different from the third value. The quoted language cited by the examiner does not anticipate this limitation, nor does any other language in DeMarcken anticipate this limitation.

Because DeMarcken does not disclose each and every limitation of amended claim 1, a rejection under 35 U.S.C. § 102 is improper for claim 1 and its dependent claims 2-4, 6-8 and 27-28. For at least these reasons, the applicant respectfully requests that the rejection of claims 1-4, 6-8 and 27-28 be withdrawn and those claims be allowed.

Claims 52-54 and 56-58 include the same limitations as argued above and distinguish from DeMarcken for at least the same reasons. The applicant respectfully requests that the rejection of claims 52-54 and 56-58 be withdrawn and those claims be allowed.

Claim Rejections - 35 U.S.C. § 103

Claims 55 and 59 are rejected as being unpatentable over DeMarcken in view of Iyengar et al., U.S. Patent 6,360,205 ("Iyengar"). As described above, claims 55 and 59 require that the set of diverse travel requirements includes at least four specific travel requirements, the first travel requirement that corresponds to a first value of the first template, the second travel requirement that corresponds to a second value of the first template, which is different from the first value, the third travel requirement that corresponds to a third value of the second template, and the fourth travel requirement that corresponds to a fourth value of the second template, which is different from the third value. As also described above, this limitation is not taught or suggested by DeMarcken. The combination with Iyengar does not teach or suggest this

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limitation either. Iyengar teaches accessing a plurality of target sites to retrieve reservation information based on input data. (see Iyengar, abstract) While, one can argue that Iyengar can produce an output that has diverse travel options if the target sites have different sources of information, this argument assumes that the sites have different sources of information. However, practically there are limited numbers of sources of such information in the airline industry and thus event this supposition is improper. Nonetheless Iyengar does not suggest the elements of the applicant's claimed invention, namely establishing a plurality of travel requirement templates, and for each travel requirement template, defining a plurality of travel requirements, each of the travel requirements corresponding to a different value of the respective travel requirement template.

Because neither DeMarcken nor Iyengar teach or suggest each and every limitation of claims 55 and 59, a rejection under 35 U.S.C. § 103 is improper. For at least these reasons, the applicant respectfully requests that the rejection of claims 55 and 59 be withdrawn and those claims be allowed.

Response to Arguments

Applicant agrees that the examiner is entitled to give diversity its broadest meaning, as long as it is reasonable. However, as explained above, amended claim 1 and originally filed claims 52 and 56 do not rely simply on the definition of diversity. These claims go beyond that and define what entails a set of diverse travel requirements. Because the examiner misread the claim limitation (i.e., believing that the template was generated by the requirement instead of the other way around), the examiner derived an interpretation of the claim limitation that eliminated some of its elements. Applicant believes that the above remarks point out and correct the error, and show further how, in light of the correct interpretation, the cited prior art does not teach or suggest all of the applicant's claimed invention. Applicant requests that since the correction of interpretation and the amendment puts this case in a condition for allowance, the amendment should be entered and all claims be allowed in their amended form. Even if the examiner refuses to enter the amendment of claim 1, claims 5, 52, and 55, and all of their dependent claims,

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without amendment, are in condition for allowance with the mistaken interpretation corrected, and should therefore be allowed.

Applicant's discussion of particular positions of the Examiner does not constitute a concession with respect to any positions that are not expressly contested by the Applicant. Applicant's emphasis of particular reasons why the claims are patentable does not imply that there are not other sufficient reasons why the claims are patentable. Applicant's amendment or cancellation of the claims does not constitute a concession that the claims are not allowable in their unamended form.

Please apply any other charges or credits to deposit account 06-1050.

Respectfully submitted,

Date: 6/2/04



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